

Message Text

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DRAFTED BY DOD/ GC(IA): JJALLEN: EDD

03/23/73 EXT. 20270 (STATE)

APPROVED BY EUR/ CE: JSSUTTERLIN

EUR/ CE: MR. RUECKERT

L/ PM: MR. FIELDS

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FM SECSTATE WASHDC

TO AMEMBASSY BONN

UNCLAS STATE 054114

E. O. 11652: N/ A

TAGS: MILI, GW

SUBJECT: CLAIMS -- MR. KARL BETZ

REF: BONN 3860; BONN 2785.

1. ON SEPTEMBER 2, 1964, KARL BETZ WAS KILLED IN A TRAFFIC ACCIDENT CAUSED BY NEGLIGENT DRIVING OF AN OFF- DUTY AMERICAN SOLDIER. A CLAIM ON BEHALF OF KARL BETZ' S WIFE HELENE AND MINOR SON WAS SUBMITTED ON SEPTEMBER 16, 1964 TO GERMAN CLAIMS AUTHORITIES WHO TRANSMITTED THE CLAIM TO U. S. CLAIMS AUTHORITIES ON OCTOBER 6, 1967 WITH A RECOMMENDATION THAT AN EX- GRATIA AWARD OF DM 88,448.16 (THEN APPROXIMATELY \$22,112.04) BE MADE.

2. U. S. FOREIGN CLAIMS COMMISSION NO. 16 IN GERMANY CONSIDERED THE CLAIM AND RECOMMENDED AN AWARD OF DM 83,905.96 (THEN APPROXIMATELY U. S. \$20,976.49). HOWEVER, THE AMOUNTS CLAIMED AND RECOMMENDED EXCEEDED \$15,000, THE MAXIMUM WITHIN THE JURISDICTION OF A FOREIGN CLAIMS COMMISSION. THEREFORE, CHIEF, U. S. ARMY CLAIMS SERVICE TRANSMITTED THE CLAIM TO THE ASSISTANT SECRETARY OF THE ARMY (FINANCIAL MANAGEMENT) ON MARCH 19, 1969 WITH A RECOMMENDATION THAT IT BE FOUND MERITORIOUS IN AN AMOUNT NOT UNCLASSIFIED

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EXCEEDING \$15,000 AND BE REFERRED TO A FOREIGN CLAIMS COMMISSION FOR SETTLEMENT.

3. BY LETTER DATED MAY 19, 1969, ATTORNEYS FOR MRS. BETZ

WERE NOTIFIED THAT THE CLAIM WAS BEING REFERRED TO A FOREIGN CLAIMS COMMISSION. THE ATTORNEYS FOR MRS. BETZ ALSO ARE HANDLING THE SUBROGATION CLAIM OF THE GERMAN HEALTH INSURER, WHICH AWARDED THE PENSION TO MRS. BETZ AND HER SON. THE INSURER WAS OBLIGATED TO AWARD THE PENSION REGARDLESS OF THE CAUSE OF HER HUSBAND'S DEATH.

4. THE APPLICABLE U. S. CLAIMS STATUTE FORBIDS THE PAYMENT OF A CLAIM OF A SUBROGEE. UNDER EXISTING REGULATIONS INSURERS CAN, HOWEVER, PRESENT A CLAIM UNDER POWER OF ATTORNEY IN THE NAME OF THE PERSON SUFFERING THE DAMAGE AND LATER COLLECT THEIR SUBROGATED CLAIM OUT OF THE PROCEEDS OF PAYMENT TO THE SUBROGOR.

5. WHILE A MAXIMUM AWARD WAS AUTHORIZED IN THIS INSTANCE BY THE ASSISTANT SECRETARY OF THE ARMY (FINANCIAL MANAGEMENT) -- THE EQUIVALENT OF \$15,000 IN DEUTSCHE MARKS -- TO COMPENSATE MRS. BETZ PROPERTY DAMAGE AND RELATED EXPENSES (DM 4,284), THIS AWARD IS NOT SUFFICIENT ALSO TO COMPENSATE THE SUBROGEE, THE HEALTH INSURER, FOR THE ENTIRE AMOUNT OF THE PENSION PAID AND EXPECTED TO BE PAID TO MRS. BETZ (TOTAL TO TERMINATION DATE ESTIMATED AT DM 118,604). THE ATTORNEYS, REPRESENTING BOTH MRS. BETZ AND THE HEALTH INSURER, HAVE CONSISTENTLY REFUSED TO ACCEPT THE EQUIVALENT OF \$15,000 IN DM.

6. WE ARE INFORMED THAT MRS. BETZ' SHARE OF THE AUTHORIZED AWARD WOULD ONLY AMOUNT TO AROUND DM4,000, THE BALANCE GOING ENTIRELY TO THE HEALTH INSURER. THE U. S. ARMY CLAIMS SERVICE, EUROPE, ON MARCH 9, 1973, MAILED OUT A FORMAL OFFER OF PARTIAL PAYMENT TO MRS. BETZ OF THE EQUIVALENT OF \$1,000 IN DM TO ALLEVIATE ANY HARDSHIP WHICH SHE MAY BE EXPERIENCING. ATTORNEYS FOR MRS. BETZ AND THE HEALTH INSURER REPORTEDLY HAVE AGREED TO ALLOW HER TO ACCEPT A PARTIAL PAYMENT. HOWEVER, THEY THUS FAR HAVE REFUSED TO ACCEPT THE BALANCE OF \$14,000 IN DM PENDING OUTCOME OF THE INQUIRY INITIATED THROUGH UNCLASSIFIED

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THE EMBASSY. ON ITS PART, THE USG IS FULLY PREPARED TO

PAY THE REMAINING SUM AUTHORIZED UNDER THE ABOVE MAXIMUM
AWARD AT ANY TIME THIS IS ACCEPTED BY CLAIMANT. ROGERS

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